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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,566	05/03/2005	Carl Gisquiere	KOB	4536

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7590 05/09/2007

EXAMINER	
MATTHEWS, TERRELL HOWARD	

ART UNIT	PAPER NUMBER
3654	

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/533,566	Applicant(s) GISQUIERE, CARL	
	Examiner Terrell H. Matthews	Art Unit 3654	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.  
     4a) Of the above claim(s) 1-6,8,9,14,22 and 23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7,10,11,13 and 15-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/17/2005</u> .   | 6) <input type="checkbox"/> Other: ____.                          |

### DETAILED ACTION

Claims 1-6, 8-9, 12, 14, 22-23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 2/20/2007.

Applicant's election with traverse of claims 7, 10-11, 13, 15-21 in the reply filed on 2/20/2007 is acknowledged.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7, 10, 15-17, 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Bossu (FR-621477).

Referring to claims 7, 10, 15-17, 20-22. Bossu discloses an apparatus for separating particles from a mixture. See Figs. 1-3 and respective portions of the specification. Bossu further discloses a guiding surface (D) installed in an inclining position to make a mixture move along between a feeding point (K) and a discharge point (G) of the guiding surface installed in an inclining position situated at an angle lying between 30 and 40 degrees with respect to the horizontal, situated at a distance of

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the feeding point, a feeding device (J) for supplying a mixture near the feeding point of the guiding surface installed in an inclining position and a number of collecting units (P) situated at different positions past the discharge point of the guiding surface installed in an inclining position in order to selectively collect different particles of the mixture differently moving along (See at least Fig. 1). Bossu further discloses that the distance between the discharge point for the mixture from the feeding device (J) and the feeding point (K) for the mixture from the guiding surface installed in an inclining position is of the order of magnitude of 0.15 meters (See at least Fig. 1). Bossu further discloses wherein the device comprises parts (F) for adjusting the inclination of the guiding surface installed in an inclining position (See at least Fig. 1). Furthermore, Bossu discloses wherein the guiding surface (D) installed in an inclining position is part of a vibrating table with vibrators (d) moving the guiding surface installed in an inclining position back and forth essentially according to its longitudinal direction. Additionally, Bossu discloses wherein the guiding surface (D) installed in an inclining position is installed under the aforesaid feeding device (J), such that the direction of motion of the mixture supplied to the guiding surface installed in an inclining position near the feeding point comprises a component according to the guiding surface which is directed opposite to the direction of motion of the mixture along the guiding surface when this mixture is moving along from the feedings point to the discharge point (See at least Fig. 1).

Referring to claims 20-21. Bossu discloses that at least one collecting unit (P) comprises at least one adjustable separating wall (S) enabling to adjust the position of

the at least one collecting unit (P) with respect to the discharge point of the guiding surface and that the separating wall (S) is installed rotatably around an axis running parallel to the cross direction of the guiding surface installed in an inclining position (See at least Fig. 1).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bossu in view of Brastad (US-3247960).

Referring to claim 11. Bossu does not disclose wherein the guiding surface installed in an inclining position is consisting of a plate provided with side flanges comprising an essentially flat bottom surface. Brastad discloses a "Electrode Separator". See Figs. 1-4 and respective portions of the specification. Brastad further discloses wherein a guiding surface for particles consist of a plate provided with side flanges comprising an essentially flat bottom surface (See at least Fig. 1). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the apparatus of Bossu to include the teachings of Brastad wherein the guiding surface comprises a plate provided with side flanges and an essentially flat bottom surface so that particles were maintained on the guiding surface and did not fall off or become

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unarranged during vibration which would subsequently aid in more efficient separation of particles.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Haines (US-5271506) discloses an apparatus for separating articles comprising a feeding device, a guiding surface, and collection units for articles of different weight or size.

Zollinger (US-3468417) discloses an apparatus for separating particles comprising a feeding device, a guiding surface, collection units, and an adjustable opening.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrell H. Matthews whose telephone number is (571)272-5929. The examiner can normally be reached on M-F 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

THM



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